

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARY THERESA CAHILL,)	
)	
Plaintiff,)	
)	
vs.)	No. 08 C 255
)	
SMITH & NEPHEW, INC.,)	District Judge Darrah
)	
Defendant.)	Magistrate Brown

**AGREED MOTION TO EXTEND DISCOVERY DEADLINES BY
FORTY-FIVE (45) DAYS**

Plaintiff, Mary Theresa Cahill, by her undersigned attorney, moves the Court to extend the deadlines for completing discovery and filing dispositive motions by forty-five (45) days and that the existing May 11, 2009 trial date remain. In support, Plaintiff states as follows:

1. In February of 2008, prior to the scheduled status hearing, the parties submitted a proposed discovery plan to the court, which provided as follows:
 - Fact discovery closes July 31, 2008.
 - Plaintiff's experts disclosures due August 31, 2008.
 - Plaintiff's experts to be deposed by September 30, 2008.
 - Defendant's experts to be disclosed by October 31, 2008.
 - Defendant's experts to be deposed by November 30, 2008.
2. On February 20, the Court set the following schedule:
 - Discovery ordered closed on December 1, 2008.
 - Dispositive Motions to be filed by December 11, 2008.
 - Pre-trial Conference set for May 6, 2009.

- Jury trial set for May 11, 2009.

3. The parties now jointly request that the Court extend the discovery closure date and date for filing dispositive motions by 45 days, until January 14, 2009 and January 26, 2009 respectively, and that the trial date remain.
4. This brief extension has been made necessary for several reasons. First, in this case alleging a defect in an artificial hip, Smith & Nephew, Inc. ("Smith & Nephew") was unable to determine the proper serial numbers and other information necessary to trace the hip until after a protective order was entered on April 11, 2008 and the hip was shipped to Smith & Nephew. That protective order was made necessary due to the fact that a third party, Rush North Shore Medical Center, had asserted custody over the hip. Those delays in turn postponed any meaningful discovery responses from Smith & Nephew until May 27, 2008, when it formally responded to outstanding written discovery.
5. There has also been a delay in scheduling the depositions of certain treating physicians. As it stands now, the two main treaters, Dr. Goldstein and Dr. Gordon, will not be able to appear for their depositions until August 21, 2008 and August 26, 2008, respectively.
6. Finally, there has been difficulty scheduling the remaining fact witness depositions of Smith & Nephew employees, which Plaintiff noticed for July 25, 2008 and July 30, 2008. Counsel for Smith & Nephew have advised that, due to counsel's schedule and that of the witnesses, those depositions will not be feasible until later in August, 2008.

7. There was also a short delay in making progress when counsel for Mrs. Cahill moved to another law firm and had to have the file materials transferred.
8. The parties have been diligent in pursuing discovery under the circumstances and this motion is not submitted for purposes of delay.
9. As the brief discovery extension will not affect the existing pre-trial conference or trial dates, the parties request that the Court grant the instant motion, ordering that the Discovery Closure Deadline be extended until January 14, 2009 and that the date for filing dispositive motions be extended until January 26, 2009. The parties have also agreed on the following dates for completing discovery:

- **Fact discovery closes September 14, 2008.**
- **Plaintiff's expert disclosures due October 14, 2008.**
- **Plaintiff's experts to be deposed by November 15, 2008.**
- **Defendant's experts to be disclosed by December 15, 2008.**
- **Defendant's experts to be deposed by January 14, 2009.**
- **Dispositive motions to be filed by January 26, 2009.**

WHEREFORE, Plaintiff, Mary Theresa Cahill, requests that the Court extend the deadline for discovery closure by forty-five (45) days, until January 14, 2009, extend the date for filing dispositive motions by 45 days, until January 26, 2009 and that the May 11, 2009 trial date remain.

MARY THERESA CAHILL

/s/ Eric D. Stubenvoll

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